

OFFICIAL COPY

Fresno, California

December 10, 2002

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Jerry Duncan	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Councilmember
	Henry Perea	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Chancellor MSGR John Coelho-Harguindeguy, St. Anthony Padua Church, gave the invocation, and a student in the audience led the Pledge of Allegiance to the Flag.

Councilmember Boyajian congratulated Convention Center Director Valdez for booking a concert by CHER in January, 2003.

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APPROVE MINUTES OF DECEMBER 3, 2002

On motion of Councilmember Calhoun, seconded by Councilmember Quintero, duly carried, RESOLVED, the minutes of December 3rd approved, *as amended*, on Page 140-253, 1st paragraph, moving the last sentence in parenthesis to the succeeding Item 5-B (dedication plaque for the new regional park).

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APPROVE AGENDA:

NOTIFICATION OF BRIEFING REPORT ON 12/17/02, BY THE REDEVELOPMENT AGENCY ON THE GOVERNOR'S BUDGET CUTS AND THE STATE'S REQUEST FOR THE RETURN OF ALL UNENCUMBERED 20% HOUSING SET ASIDE FUNDS AND IMPACT ON THE CITY - COUNCILMEMBER (CHAIR) DUNCAN

Notification made.

(3-B) AWARD CONTRACT FOR PROFESSIONAL CUSTOMER INFORMATION SERVICES FOR THE DEPARTMENT OF PUBLIC UTILITIES

City Clerk Klisch advised staff was requesting the item be removed from the agenda in response to an outside request, with President Perea stating the matter would be left on the agenda and scheduled it for discussion at 2:00 p.m.

(1-I) RESOLUTION - APPROVING FINAL MAP OF TRACT NO. 5000, OF VESTING TENTATIVE MAP NO. 5000/UGM AND ACCEPTING DEDICATED PUBLIC USES THEREIN, A 123-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION, ON 48.8 ACRES, LOCATED ON THE SOUTHWEST CORNER OF E. OLYMPIC DRIVE AND N. CEDAR AVENUE - (PROPERTY LOCATED IN DISTRICT 6)

Laid over one week at the request of staff.

(1-H) *RESOLUTION - 46TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$2,200,000 FOR PROJECT DESIGN AND DEVELOPMENT COSTS FOR THE CONVENTION CENTER PARKING STRUCTURE (REQUIRES 5 AFFIRMATIVE VOTES)

(1. * RESOLUTION - TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS)

City Clerk Klisch advised the second Resolution reimbursing expenditures was being removed from the agenda as it had been adopted at a prior meeting.

DIRECT STAFF TO SCHEDULE ON THE DECEMBER 17TH AGENDA: "DISCUSS PROPOSAL TO ROTATE THE POSITION OF CITY COUNCIL PRESIDENT" - COUNCILMEMBER CALHOUN

Direction made.

(10:00 A.M. #1) HEARING TO CONSIDER REZONING APPLICATION NO. R-02-38, AND ENVIRONMENTAL FINDINGS, FILED BY JOHN ASHLEY, PROPERTY LOCATED NORTH OF W. BARSTOW AVENUE, EAST OF N. BRAWLEY AVENUE AND SOUTH OF BURLINGTON NORTHERN SANTA FE RAIL LINE (BNSF) (PROPERTY LOCATED IN DISTRICT 2) (CONTINUE TO 12/17/2002, @ 10:45 A.M.)

Continued as noted.

On motion of Acting President Castillo, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2002-388 - APPROVING APPLICATION FOR, AND ACCEPTANCE OF, TWO 80/20 PERCENT MATCH, HAZARDOUS MATERIALS PUBLIC EDUCATION GRANTS, TOTAL OF \$22,300 FROM THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) THROUGH THE CALIFORNIA OFFICE OF EMERGENCY SERVICES (OES), AND AUTHORIZE EXECUTION OF DOCUMENTS

1. *RESOLUTION NO. 2002-389 - 43RD AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$27,900 TO THE FIRE DEPARTMENT'S GRANT FUNDS ACCOUNT TO PRODUCE A PUBLIC EDUCATION PROGRAM, AND APPROVE APPLICATIONS FOR AND ACCEPT THE FUNDS FROM TWO HAZARDOUS MATERIALS PUBLIC EDUCATION GRANTS, TOTAL OF \$27,900 FROM THE U.S. DEPARTMENT OF TRANSPORTATION, THROUGH CALIFORNIA OFFICE OF EMERGENCY SERVICES, AND AUTHORIZE EXECUTION OF DOCUMENTS (REQUIRES 5 AFFIRMATIVE VOTES)

(1-B) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO PIONEER AMERICAS, LLC IN THE AMOUNT OF \$272,330.44 FOR 10% SODIUM HYPOCHLORITE (BULK DELIVERY)

(1-C) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO PIONEER AMERICAS LLC IN THE AMOUNT OF \$146,700 FOR 12.5% SODIUM HYPOCHLORITE (BULK DELIVERY)

(1-D) AWARD A CONTRACT TO RBR TACTICAL ARMOR IN THE AMOUNT OF \$86,622.93 FOR 366 LEVEL III-A POLICE BALLISTIC HELMETS

(1-E) RESOLUTION NO. 2002-390 - APPROVE THE TRANSFER OF CERTAIN CONTRACT ADMINISTRATION FUNCTIONS OF SOCIAL SERVICE GENERAL FUNDED PROGRAMS FROM THE PARKS AND RECREATION DEPARTMENT TO THE FINANCE DEPARTMENT

(1-F) APPROVE SALE OF A SMALL ABANDONED WATER WELL SITE TO ROBERT H. AND ANTONIA A. SILVA, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR HIS DESIGNEE, TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTION

(1-H) *RESOLUTION NO. 2002-391 - 46TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$2,200,000 FOR PROJECT DESIGN AND DEVELOPMENT COSTS FOR THE CONVENTION CENTER PARKING STRUCTURE *(REQUIRES 5 AFFIRMATIVE VOTES)*

*(1. *RESOLUTION TO REIMBURSE CERTAIN EXPENDITURES REMOVED FROM THE AGENDA DURING AGENDA APPROVAL/PREVIOUSLY ADOPTED)*

On motion of Councilmember Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

CONSENT CALENDAR - BILL FOR INTRODUCTION:

(2-A) * BILL NO. B-66 - AMENDING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE RELATING TO SEWAGE AND WATER DISPOSAL

On motion of Councilmember Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Bill No. B-66 introduced before the Council and laid over, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

CONTESTED CONSENT CALENDAR ITEMS:

(1-G) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CAROLLO ENGINEERS, P.C., FOR THE WASTEWATER RECLAMATION FACILITIES MASTER PLAN UPDATE

Engineering Services Manager Kirn advised the agreement was not complete and clarified staff was requesting Council authorize staff to *complete* the agreement with Carollo Engineers.

On motion of Councilmember Duncan, seconded by Councilmember Ronquillo, duly carried, RESOLVED, staff authorized to complete the Professional Services Agreement with Carollo Engineers, P.C., by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

(8:45 A.M.) CLOSED SESSION:

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a) - CASE NAMES:

1. BOMBAY CORPORATION, ET AL. V. CITY OF FRESNO
2. A.H.D.C. V. CITY OF FRESNO, ET AL.

B. CONFERENCE WITH LEGAL COUNSEL - FRIEND-OF-THE-COURT-PARTICIPATION - GOVERNMENT CODE SECTION 54954.2, SUBDIVISION (a) - CASE NAME: SCHIFANDO V. CITY OF LOS ANGELES (AMICUS BRIEF)

C. JOINT SESSION WITH THE REDEVELOPMENT AGENCY: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a) - CASE NAME: CITY OF FRESNO V. COUNTY OF FRESNO, LAFCO, CITY OF CLOVIS MATTER AS JOINT REDEVELOPMENT AGENCY AND CITY OF FRESNO

The City Council met in regular and joint closed session in Room 2125 at the hour of 8:45 a.m. to consider the above matters and reconvened in regular open session at 9:39 a.m.

(9:30 A.M.) AMEND THE FY 2003 PARKING ENTERPRISE BUDGET

1. *RESOLUTION - 48TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$1,099,300 TO ADJUST REVENUES AND APPROPRIATIONS FOR THE PARKING NON-CORE FUND, THE PARKING CORE FUND AND THE CITY HALL AREA PARKING FUND (REQUIRES 5 AFFIRMATIVE VOTES)
2. APPROVE IN CONCEPT THE FUNDING PLAN FOR THE DOWNTOWN CAPITAL PARKING PLAN
3. *RESOLUTION - 47TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$2,695,000 IN BOND PROCEEDS FOR THE DOWNTOWN PARKING CAPITAL IMPROVEMENTS (REQUIRES 5 AFFIRMATIVE VOTES)

Transportation Manager Madewell reviewed the issue at length, as contained in the staff report as submitted, and the City's Financial Advisor, David Brodsky of Kelling, Northcross & Nobriga, reviewed the proposed bonding issue that would be coming back to Council in full detail in late January or early February to complete the capital improvements identified in the Walker Report.

Speaking to the issue were: Alex Correa, FCEA, who requested the new employees be City employees; Barbara Hunt, 246 W. Byrd, opposed to bonding; and Robert Johnson, Senior Vice President of the Quiring Corp., and Eric Wilkins, State Center Properties, 747 "R" Street, who spoke to their new medical project in the Old Spaghetti Factory building and in support of staff's recommendation.

* Visiting 3rd grade students from Powers Elementary School were recognized and welcomed.

Mr. Madewell and City Manager Hobbs responded to questions and comments of Councilmember Duncan relative to Ampco's operation of the City's current parking facilities, if they have proven themselves as a quality vendor, the \$840,000 net loss in parking revenues in FY 02 and how that number has turned around into a positive cash flow and commendation to staff, whether revenue for the proposed convention center hotel was included in the revenue projections, and the ceiling Council placed on full-time employees (FTEs) and why staff was proposing to hire new staff under Ampco. Councilmember Duncan stated Council placed a discipline on the city on FTEs and he was very comfortable with the proposal, and made a motion to approve staff recommendations on the above Items 1, 2 and 3, which motion was seconded and later acted upon.

Councilmember Ronquillo spoke of parking and rates in other cities and in Fresno, and in support of staff's recommendation, and along with Acting President Castillo, Councilmembers Quintero and Duncan, and President Perea presented questions/comments at length on people relocating out of lot #8 to take advantage of the parking/shuttle service, staffing of the spiral garage, total downtown parking spaces, specifics of the current Ampco contract, number of city garages/lots, if Ampco employees issued citations, City staff issuing citations, if the City received all revenue from Ampco issued citations, annual cost the City pays to Ampco **(2 - 0)**, number of Ampco staff who supervise city garages/surface lots, cost to hire proposed additional staff, average wage/starting salary for City and Ampco employees, concern with Ampco's wages and keeping people at the poverty level, if any City employees would be displaced/lose their jobs with the proposal, amount of overtime currently being paid to city employees, FCEA's concern with the new hires, the Ampco contract expiring in 2003 and potential for private employees to lose their jobs, concern with overtime and why new employees are not being hired with those funds, need for information on amount of overtime being paid, cost trade-offs and benefits to be gained by overtime, Councilmember Duncan reiterating Council placed a ceiling on FTEs and emphasizing staff was doing exactly as asked by presenting Council with a reasonable proposal, continued questioning relative to whether Ampco's 40 employees/3supervisors worked solely on city lots, if parking revenue proceeds would be utilized to acquire real estate, if staff would be following the Walker recommendations, some Councilmembers being in support of the plan but having concerns with the employees, if the motion-maker would separate the two issues, process/what was needed to separate the issues this date, if future action would have to be taken on the FTE ceiling approved during budget, Councilmember Boyajian requesting the employee issue be reserved, Councilmember Duncan stating financial discipline was the bigger picture and he would stay with his motion and see where it goes, Councilmember Ronquillo clarifying he supported the proposal but was also sensitive to the employees, how the motion could be amended to take the employee issue off the table, need for the Ampco contract to also be amended, and the bonding process and timeline to hire employees, with Mr. Madewell, an Ampco representative, Mr. Hobbs, Mr. Correa and City Attorney Montoy responding to questions and/or clarifying issues.

Councilmember Calhoun stated he did not like the direction the issue was headed; clarified a motion and second was on the floor on a reasonable proposal tied with adding contractual employees; stated he supported moving forward on the motion adding if the votes were not there staff would have to come back with another proposal; and emphasized he was opposed to voting on a plan without people to implement it. Mr. Hobbs stated the City had an obligation to practice best business practices, and spoke in support of the proposal stating (1) staff was respecting Council's ceiling on FTEs, (2) there was a real cost savings by going through the private sector, (3) these would be new employees with no city employees being replaced, and (4) there was the ability for quick hires through Ampco as opposed to going through the normal city process. Upon question, Councilmember Duncan confirmed his motion would stay. Brief comments ensued on the employee issue, the ability to separate the issues easily, and generating funds to create a parking bond for needed structures. President Perea acknowledged the need for parking structures and stated the plan was a good one but his continuing concern was the inflexibility in managing the plan citing the Kern Street Café Thursday night event and people being cited.

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A motion of Councilmember Duncan, seconded by Councilmember Ronquillo, to approve staff's recommendation on Items 1, 2 and 3 failed, due to the need for five affirmative votes for the Resolutions, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Ronquillo
Noes	:	Castillo, Quintero, Perea
Absent	:	None

Upon question there was no alternative motion, and President Perea requested staff to bring the issue back next week.

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Another visiting class from Powers/Ginsburg School was recognized and welcomed.

(10:00 A.M. #2) CONTINUED HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 42, TRACT NO. 5103

1. RESOLUTION NO. 2002-392 - ANNEXING TERRITORY TO CFD NO. 2, AND AUTHORIZING THE LEVY OF A SPECIAL TAX

2. RESOLUTION NO. 2002-393 - CALLING SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2002-394 - DECLARING ELECTION RESULTS

4. * BILL NO. B-67 - ORDINANCE NO. 2002-66 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2002-2003 AND FUTURE TAX YEARS WITHIN AND RELATING TO CFD NO. 2, ANNEXATION NO. 42

President Perea announced the time had arrived to consider the issue and opened the hearing. Acting President Castillo and Councilmember Ronquillo briefly left the meeting at 10:49 a.m.

Barbara Hunt, 246 W. Byrd, spoke to the issue.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of Councilmember Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2002-392, 2002-393 and 2002-394 hereby adopted, and the above entitled Bill No. B-67 adopted as Ordinance No. 2002-66, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Perea
Noes	:	None
Absent	:	Castillo, Ronquillo

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(10:15 A.M.) CONSIDERATION OF CITY-WIDE SHOPPING CART ORDINANCE

1. *BILL (FOR INTRODUCTION) - AMENDING THE FRESNO MUNICIPAL CODE ADDING A CITY-WIDE SHOPPING CART ORDINANCE (**ALTERNATIVE A**) - COUNCILMEMBER CALHOUN

2. *BILL(FOR INTRODUCTION) - AMENDING THE FRESNO MUNICIPAL CODE ADDING A CITY-WIDE SHOPPING CART ORDINANCE (**ALTERNATIVE B**)

Councilmembers Castillo and Quintero returned to the meeting at 10:52 a.m.

Councilmember Calhoun reviewed the issue expanding on the problem of abandoned carts, complaints from constituents, lack of interest by most merchants in stopping the practice of carts being taken off the premises or retrieving them, companies who have retrieval programs, and the alternatives before Council and input already received; clarified he wanted the Council's and community's input and was not asking for a formal vote this date; and thanked police and the city attorney staff for all their work and efforts.

Speaking to the issue were: Barbara Hunt, 246 W. Byrd, opposed; Jason Bales, Whole Foods, 3146 W. Barstow, support for a plan; Gloria Torrez, opposed **(3 - 0)**; and Victoria Howard, Wal Mart, 3680 W. Shaw, who stated she did not want carts taken off the premises and advised of Wal Mart's retrieval plan.

Councilmember Duncan commended Councilmember Calhoun for bringing the issue up and for his concern in keeping neighborhoods clean; stated he had a problem with adding new regulations as State law, which he noted already existed, was stronger than what was being proposed and read the law into the record; and stated enforcement was lacking and he supported direction to staff to develop an enforcement plan. Councilmember Ronquillo concurred and added the problem was different in various areas/neighborhoods; spoke to the cost of the carts and maintenance costs; concurred a plan was needed but stressed the City also had to be sensitive and not lean on businesses; and suggested businesses consider selling repaired/rehabilitated carts to people who did not have cars.

Discussion continued with Councilmembers Quintero and Boyajian commenting on the issue and presenting questions relative to State law, if the police department has been enforcing State law, if code enforcement deals with abandoned carts, how the police department responds to marked carts, if businesses have retrieval services, how difficult it is to keep carts on the premises, if selling carts as suggested was feasible, and if abandoned cart information could be included in utility bills, with City Attorney Montoy, Captain Gardner, Mr. Bales, Ms. Howard and Assistant City Manager Souza responding. President Perea stated penalizing businesses was not the solution and recommended discussions with the industry on a plan.

Councilmember Calhoun noted two industry representatives who cared provided input but emphasized there were many others that did not care; clarified the message he was trying to convey to businesses was to tell people taking carts off the premises was prohibited by California law adding he has seen no signs in stores or on carts stating that; spoke briefly to need for carts to have identifiers on them; and stated it was the businesses' job -- not the police departments' -- to pick up carts and advised he would meet further with the industry/community and follow up on the problem. President Perea stated he was sensitive to Councilmember Calhoun's concerns but clarified being punitive with business was not the tone of the entire Council, and acknowledged abandoned carts were a problem and Council wanted to work with the industry to solve it. There was no further discussion.

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(11:00 A.M.) STAFF UPDATE ON "BEST PRACTICES" REPORT ON THE CHAFFEE ZOO AND DISCUSSION ON THE ESTABLISHMENT OF AN INDEPENDENT CITIZENS ADVISORY COMMITTEE TO REVIEW THE ZOO AND MAKE RECOMMENDATIONS TO THE COUNCIL ON FINANCIAL, OPERATING AND MARKETING ISSUES FACING THE ZOO - COUNCILMEMBER DUNCAN

Councilmember Duncan noted a positive workshop was held May 7th but Council's direction and staff's commitment to conduct a best practices study of other Zoos and report back to Council in 30 days did not occur; thanked Parks & Recreation staff for their update memo and the comparative analysis; stated the situation this date had not changed and perhaps was even worse because of the impending budget crisis and fiscal issues the City would be dealing with; and spoke to his intent to establish a blue ribbon committee to review the Zoo study outcome.

Assistant City Manager Souza spoke to the value of the Zoo to the community and to the need for a comprehensive business plan; and advised staff would be coming back with an action plan around March, was supportive of the blue ribbon committee, and was seeking as much input from as many parts of the community as possible.

Speaking to the issue were: incoming Zoo Society President Dr. Bill Stewart, 865 E. Portland, who requested Council move forward with the business plan; Barbara Hunt, 246 W. Byrd, who urged the Zoo be kept under the parks and recreation department; Vicky Haas, 5155 N. Channing, who spoke to the Zoo as an educational facility and urged continued support; and Craig (last name inaudible), who spoke to the need for fund raising efforts and in opposition to paying for an outside review.

Councilmember Duncan clarified the City ran the Zoo, not the Zoo Society; stated the Zoo Society had been instrumental in many of the new projects and exhibits, was an extraordinary organization, and was not the one responsible for the Zoos' problems; stated the intent of the evaluation was to include everyone, especially the Zoo Society adding he felt they would be intimately involved; and made a motion to establish the committee to review the outcome of the Zoo analysis, if and when a report comes forth, and committed to picking up any costs associated with the committee.

(4 - 0) Councilmember Calhoun stated he felt the new Council should make the appointments since the report was expected next year, and stated he was unclear with what the committee would do and felt problems would ensue with the upcoming business plan and the committee making recommendations, with Councilmember Duncan responding and clarifying issues. Councilmember Boyajian stated Fresno had more studies and more blue ribbon committees, stressed the problem with the Zoo was lack of money and questioned how spending more money on another study and on what staff already knew would help, and added he also had a problem with the committee, with Zoo Director Waterhouse and Councilmember Duncan responding. President Perea stated he supported moving forward and clarified the new Council would make the appointments. Brief comments ensued by Councilmember Ronquillo on the need for an internal economic development effort, i.e., a food court or anything else that could be rented out by people and generate revenue for Zoo, and by Acting President Castillo who questioned if there were any other blue ribbon committee models existing statewide that staff could look at so as not to reinvent the wheel.

On motion of Councilmember Duncan, seconded by President Perea, duly carried, **RESOLVED**, an independent citizens advisory committee, consisting of one appointee by each Council member and 3 appointees by the Mayor (with appointments to made by the new Council), to review the Zoo, the study analysis (if and when one comes forth), and make recommendations to Council on financial, operating and marketing issues facing the Zoo hereby established, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	Boyajian
Absent	:	None

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(11:15 A.M.) PRESENTATION AND ACCEPTANCE OF THE STATE OF HISTORIC PRESERVATION ANNUAL REPORT

The 2001-2002 report, including clarifications, highlights, accomplishments, and current and upcoming projects, was reviewed at length by Kevin Enns-Remple, past Chair of the Historic Preservation Commission.

1. RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION COMMENDING THE OWNERS AND

ARCHITECT ON THE RESTORATION OF THE ROWELL BUILDING

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The Resolution was presented by Councilmember Ronquillo, brief discussion ensued and commendations were extended to Rowell Building owner and architect and the Historic Preservation Commission, and Mr. Enns-Remple responded briefly to questions of Councilmember Boyajian relative to funding/grants for the historic Porter Tract

On motion of Councilmember Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the State of Historic Preservation Annual Report hereby accepted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(11:30 A.M.) HEARING ON PROPOSED CITY OF FRESNO COMMUNITY FACILITIES DISTRICT (CFD) NO. 7, TRACT NO. 4868 (GRANVILLE HOMES - WILLOW AND TEAGUE)

1. RESOLUTION NO. 2002-395 - APPROVING THE FORM, AND AUTHORIZING THE EXECUTION, OF A JOINT COMMUNITY FACILITIES FINANCING AGREEMENT WITH THE FRESNO IRRIGATION DISTRICT PERTAINING TO CFD NO. 7

2. RESOLUTION NO. 2002-396 - ESTABLISHING CFD NO. 7, AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN SAID DISTRICT, PRELIMINARILY ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT, AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT OF THE APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT

3. RESOLUTION NO. 2002-397 - DETERMINING THE NECESSITY TO INCUR A BONDED INDEBTEDNESS WITHIN THE PROPOSED COMMUNITY FACILITIES DISTRICT NO. 7, AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE PROPOSITION TO THE QUALIFIED ELECTORS OF THE DISTRICT

4. RESOLUTION NO. 2002-398 - CANVASSING THE RESULTS OF THE DECEMBER 10, 2002, ELECTION HELD WITHIN CFD NO. 7

5. *BILL NO. B-68 - ORDINANCE NO. 2002-67 - AUTHORIZING LEVY OF A SPECIAL TAX WITHIN CFD NO. 7

6. *RESOLUTION NO. 2002-399 - AUTHORIZING THE ISSUANCE OF BONDS, THE EXECUTION OF AN INDENTURE AND BOND PURCHASE AGREEMENT RELATED TO THE ISSUANCE AND SALE OF BONDS, APPROVING A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING THE EXECUTION OF A FINAL OFFICIAL STATEMENT, AND OTHER MATTERS RELATED THERETO

7. *RESOLUTION NOL 2002-400 - 45TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$2,100,000 FOR EXPENSES RELATED TO CITY OF FRESNO CFD NO. 7

President Perea announced the time had arrived to consider the issue and opened the hearing.

Barbara Hunt, 246 W. Byrd, expressed concern with the resolutions titles.

Upon call, no one else wished to be heard and President Perea closed the hearing. A motion and second to approve staff's recommendation was made and acted upon after discussion.

Councilmember Boyajian stated he would not support the issue because there was no implementation plan in the recently adopted 2025 General Plan, questioned what the financial implications were, and expressed concern with the unknown cost impacts and lack of analysis, with Engineering Services Manager Kirn responding. Mr. Kirn, City Manager Hobbs and City Attorney Montoy responded to additional questions of Acting President Castillo,

Councilmember Boyajian and President Perea and/or clarified issues relative to Councilmember Boyajian's concerns, the issue this date being the financing mechanism as the Tract was previously approved by Council, future cost overruns on these types of projects and if it would impact the new general plan, if implementation of the general plan

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process would not impact this project, if Councilmember Boyajian's concerns were valid, clarification that this project had gone through the process and that planning and land use issues were not before Council this date, if the CFD process was the same city-wide, and if Councilmember Boyajian's questions were relevant to this issue. Councilmember Boyajian commented additionally emphasizing there would be great impacts due to the Copper River and City College projects, and Councilmember Ronquillo explained briefly why CFDs were started **(5 - 0)**.

On motion of Councilmember Duncan, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled Resolution Nos. 2002-395, 2002-396, 2002-397, 2002-398, 2002-399 and 2002-400 hereby adopted, and the above entitled Bill No. B-68 adopted as Ordinance No. 2002-67, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	Boyajian
Absent	:	None

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LUNCH RECESS - 12:38 P.M. - 2:06 P.M.

(3-B) AWARD A CONTRACT FOR PROFESSIONAL CUSTOMER INFORMATION SERVICES FOR THE DEPARTMENT OF PUBLIC UTILITIES

President Perea noted there was a staff request by staff to lay the matter over one week to give bidders an opportunity to submit a best and final proposal; advised his concern was with the process the City engaged which he felt had the appearance of not being fair in light of city policy for contract awards and explained; stated nothing had been shown that the lowest bidder in this case was not the lowest responsible bidder and his comparison of this contract and the one in September showed not much had changed; and stated staff's reason for removing the item from the agenda in September was the fiscal condition of the city and the need to look at every opportunity to save money yet he did not see one word in the report on what was done to save money. City Manager Hobbs responded clarifying professional services did not require award to the lowest bidder, stated the matter should have been brought back sooner but staff was addressing issues raised by Council, and clarified why Panagraph was being recommended and advised of options available to Council this date.

General Services Director Nerland further clarified issues; advised the process for Request for Proposals (RFP) and bids were different; stated staff was requesting a continuance to allow Jeffrey/Scott Advertising (JSA) a chance to offer a better price and that an independent panel would then review the proposals, select a firm, and make a recommendation to Council; and along with Mr. Hobbs further clarified issues and responded to questions of President Perea relative to the process and the cost difference between Panagraph's and JSA's proposals. President Perea reiterated his concern that nothing changed and questioned why staff did not give *all* the proposers an opportunity to "tweak" their proposals if the city wanted to save money.

Speaking to the issue, their proposals, and/or addressing concerns with the process were: Scott Coe, Thielen & Associates, 4928 E. Clinton #105; Mario Viramontes, representing Expo Advertising and Staples Hutchison & Associates, P.O. Box 9321; Barbara Hunt, 246 W. Byrd; and John Ostlund, JSA, 670 "P" Street.

Acting President Castillo expressed concerns with the process and other issues, and Councilmember Calhoun stated there would always be disagreements by those not awarded a contract, and presented questions

relative to whether a conflict of interest existed with one of the proposers who worked for a Council member in his campaign, with City Attorney Montoy stating there was no conflict. Councilmember Boyajian expressed his concern with the process and stated there was favoritism and explained.

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President Perea stated all were good vendors and reiterated his concerns were with the process and a department who wanted a specific group, stated he did not see any changes in the agreement, again questioned why all the proposers were not asked to give a last and final offer, and stated there was a process here that was tainted and questioned what Council could do. Ms. Montoy stated she was concerned with a lot of the testimony; read into the record a portion of the ordinance relative to awarding these kind of contracts; stated testimony this date was that language in the RFP was unclear and there were issues regarding preferences, negotiations after the fact, whether to allow another continuance for new information, lengthy delays, and the item being scheduled on the agenda many times; stated there were now allegations of bias by the Council and a feeling that the process was tainted; and stated from a legal perspective she felt the process was tainted and recommended all the proposals be rejected and a new, clear RFP be issued and expedited.

(6 - 0) On motion of President Perea, seconded by Councilmember Ronquillo, duly carried, RESOLVED, all proposals for customer information professional services for the Department of Public Utilities hereby rejected, and staff directed to issue a new, clear RFP, by the following vote:

Ayes	:	Boyajian, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	Calhoun
Absent	:	None

Brief discussion and questions ensued on what was needed to have another entity conduct the bidding for the City, if an Administrative Order was in place, if this issue was in violation of the existing ordinance, if it was important for staff to state in their report the ordinance was complied with, Mr Hobbs concurring there were appearance issues but not non-compliance, and Purchasing Manager Taggart clarifying the matter was bid on an RFP for services and not an RFQ and explained, clarifying the process was followed by staff.

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(8:45 A.M.) CLOSED SESSION (continued from earlier):

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a) - CASE NAMES:

1. BOMBAY CORPORATION, ET AL. V. CITY OF FRESNO
2. A.H.D.C. V. CITY OF FRESNO, ET AL.

B. CONFERENCE WITH LEGAL COUNSEL - FRIEND-OF-THE-COURT-PARTICIPATION - GOVERNMENT CODE SECTION 54954.2, SUBDIVISION (a) - CASE NAME: SCHIFANDO V. CITY OF LOS ANGELES (AMICUS BRIEF)

C. JOINT SESSION WITH THE REDEVELOPMENT AGENCY: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a) - CASE NAME: CITY OF FRESNO V. COUNTY OF FRESNO, LAFCO, CITY OF CLOVIS

The City Council met again in closed session in Room 2125 at the hour of 3:01 p.m. to complete

consideration of the above issues and reconvened in regular open session at 3:39 p.m.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Montoy announced in the matter of B-1, Schifando v. City of Los Angeles, the Council voted 7-0 to join in the amicus effort.

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140-265

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(3-A) ADOPTION OF THE 2001 CALIFORNIA BUILDING STANDARDS CODE

1. * BILL NO. B- 62 - ORDINANCE NO. 2002- 68 - REPEALING DIVISIONS 1, 2, 3, AND 4 AND RE-ENACTING DIVISIONS 1, 2, 3, AND 4 OF ARTICLE 1, CHAPTER 13 OF THE FRESNO MUNICIPAL CODE RELATING TO THE 1997 UNIFORM BUILDING CODE, THE 2000 UNIFORM MECHANICAL CODE, THE 2000 UNIFORM PLUMBING CODE, AND THE 1999 NATIONAL ELECTRICAL CODE

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill No. B-62 adopted as Ordinance No. 2002-68, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(3-C) APPROVE *CONTRACT CHANGE ORDER NO. 6 FOR INSTALLATION AND CONFIGURATION OF "FAIL-OVER" SOFTWARE AND THE CREATION OF CATASTROPHE PROOF REDUNDANCY FOR THE CITY OF FRESNO'S SAFETY SERVICES (FIRE AND POLICE) EMERGENCY DATA SYSTEMS, FUNDED BY THE FEDERAL TECHNOLOGY INITIATIVE GRANT

Assistant City Manager Souza advised Council was being asked to approve an *amendment to an existing contract and *not* a contract change order.

On motion of Councilmember Duncan, seconded by Councilmember Boyajian, duly carried, RESOLVED, the amendment to the Field Automation Systems Contract hereby approved, and the Chief of Police, or his designee, authorized to execute all required documents, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(3-D) CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT 02-20 FOR INTERSECTION IMPROVEMENTS NEAR CALIFORNIA STATE UNIVERSITY, FRESNO AT SHAW/WOODROW, SHAW/CHESTNUT CEDAR/BARSTOW, CEDAR/BULLARD, HERNDON/CHESTNUT AND WILLOW/BARSTOW

Engineering Services Manager Kirn advised the matter related to the Save Mart Center improvements and action did not include the eucalyptus trees on Chestnut, and along with City Attorney Montoy responded to questions of Councilmember Boyajian relative to light synchronization. A motion and second to approve staff's recommendation was made and acted upon after discussion.

Mr. Kirn, Assistant City Manager Souza and Scott Moser of the public works department responded to questions of Councilmember Ronquillo, Acting President Castillo, Councilmember Boyajian and President Perea relative to who was paying for the improvements, if the event center was paying their pro-rata share, if the grant money was specific to the project, timing and status of the EIR for the trees, if discussions with FSU have occurred on traffic flow if the trees cannot be removed, need for FSU to insure adequate parking so neighborhoods will not be impacted, who initiated the grants, criteria used for the traffic study, who would reimburse the City for their work, if the City was laying the ground work for FSU to complete their entire complex, and impact on of the center downtown revitalization and if it was too late to discuss with FSU what the City was trying to do.

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On motion of Councilmember Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, (1) the finding of Mitigated Negative Declaration for EA-02-20 dated October 31, 2002, hereby adopted, and it is found that the EA reflects the independent judgment of the of the City of Fresno, and there is no substantial evidence in the record that the project, as mitigated, will have an adverse effect on the environment; and (2) the preliminary project concept for intersection improvements near CSUF at Shaw/Willow, Shaw/Chestnut, Cedar/Barstow, Cedar/Bullard, Herndon/Chestnut and Willow Barstow Avenues hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero
Noes	:	Ronquillo, Perea
Absent	:	None

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(3-E) AUTHORIZATION TO APPLY FOR LOCAL TRANSPORTATION FUND (LTF) AND STATE TRANSIT ASSISTANCE (STA) FOR FISCAL YEAR 2003 - FRESNO AREA EXPRESS

1. RESOLUTION NO. 2002-401 - 49TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$500,000 OF ADDITIONAL GRANT RESOURCES FOR TRANSIT PROJECTS AND RECOGNIZING \$208,500 FOR LOCAL MATCH (REQUIRES 5 AFFIRMATIVE VOTES)

Transit Manager Rudd gave a brief overview of the issue as contained in the staff report as submitted.

Speaking to the appropriations, other Transit/FAX related issues, and Resolution No. 2002-216 were: Gloria Torrez, and Barbara Hunt, 246 W. Byrd.

A motion and second was made to approve staff's recommendation, and Assistant City Manager Souza explained the Annual Appropriation Resolution and how numerous amendments are made to it.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the submission of the annual Transportation Funding Claim for Fresno's LTF and STA entitlement in the amount of \$13,948,649 (plus any additional funds made available during FY 03) hereby approved; the Transit General Manager authorized to execute all claim documents on behalf of the City, including \$708,500 in surplus FY 02 LTF funds received in FY 03; and the above entitled Resolution No. 2002-401 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(5-A) DIRECT STAFF, CITY CLERK AND CITY ATTORNEY TO PREPARE AMENDMENTS TO RESOLUTION REGARDING COUNCIL RULES AND PROTOCOL TO ALLOW REORGANIZATION OF COUNCIL AGENDAS AND MEETING FORMAT TO PROVIDE INCREASED PRODUCTIVITY AND EFFICIENCIES BY THE CITY COUNCIL -

COUNCILMEMBER CALHOUN

Reviewed by Councilmember Calhoun who stated he wanted to meet with staff, discuss issues, and make changes that would take place next year with the new Council. Councilmember Ronquillo left the meeting at 4:08 p.m. Councilmember Calhoun continued advising he would recommend direction be given to the city attorney to look at legal ramifications of adding "study sessions" explaining they would be held on the first Tuesday (noting they would allow for more discussion with staff on important issues in an environment where a vote does not have to take place right away), followed by regular meetings on the second Tuesday, skipping one week/not meeting on the third Tuesday, and following with a final meeting on the fourth Tuesday; stated he felt this would streamline meetings, be more considerate to audience members who wait long periods of time for an issue, and allow more time in closed session; and made a motion to direct staff as outlined above and report back next year.

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Speaking to the issue were: Barbara Hunt, 246 W. Byrd, who expressed concerns with various issues; and Gloria Torrez, who spoke to the need for Council to address the Brown Act and make it fair for everyone, and to the need to have written material for each Council item included in the packets and made available to the public.

Councilmember Boyajian stated his concern was getting information on Friday which he felt was too late as staff and outside people had to be contacted on some items, further elaborated on the issue **(7 - 0)**, and stated he would support something that gives Council more information. Councilmember Duncan stated good points were raised, concurred scheduling items was a problem and the agenda and meetings needed to be better organized, advised he found receiving consent items earlier had been very helpful, encouraged Council's support and to make suggestions to continue to improve the image of the city, and seconded Councilmember Calhoun's motion. President Perea stated he felt the meetings have been run well the past couple of years, concurred there was always room for improvement, and stated he felt part of the problem was Council took too many meeting breaks. Acting President Castillo stated he felt the issue needed to be discussed next year with the new council and made a motion to table.

On motion of Acting President Castillo, seconded by Councilmember Boyajian, duly carried, RESOLVED, the above Item 5-A tabled to January, 2003, by the following vote:

Ayes	:	Boyajian, Castillo, Quintero, Perea
Noes	:	Calhoun, Duncan
Absent	:	Ronquillo

Councilmember Quintero questioned if rules and regulations weren't already in place to make meetings run smoother, etc., with City Attorney Montoy stating although rules were in place some were outdated and some have not been followed all the time, and stated she felt some new ones were needed, i.e., placing items on the agenda and the process for considering Mayor's appointments to boards and commissions.

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(5-C) DIRECT STAFF AND CITY ATTORNEY TO MEET WITH DEVELOPERS REGARDING PROPOSED NEW DEVELOPMENT IN FANCHER CREEK AREA (FANCHER CREEK DEVELOPMENT PROJECT) AND POTENTIAL CREATION OF MELLO ROOS DISTRICT RELATING TO FIRE STATION, POLICE STATION, AND PARKS AND INFRASTRUCTURE UNDER THE AUTHORITY OF THE MELLO-ROOS COMMUNITY FACILITIES ACT - COUNCILMEMBER QUINTERO

Briefly reviewed by Councilmember Quintero who made a motion as outlined above. Upon question of Councilmember Calhoun, City Attorney Montoy confirmed a report and recommendation would come back to Council for debate and this direction would simply start the meetings. Councilmember Boyajian stated he could not support the motion as there was no general plan implementation plan in place and the cost figure was unknown

On motion of Councilmember Quintero, seconded by Councilmember Duncan, duly carried, RESOLVED, staff and the city attorney to meet with developers regarding the proposed new development in the Fancher Creek area (Fancher Creek Development Project) and the potential creation of a Mello-Roos District relating to fire station, police station, and parks and infrastructure under the authority of the Mello-Roos Community Facilities Act, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Perea
Noes	:	Boyajian
Absent	:	Ronquillo

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140-268

12/10/02

UNSCHEDULED ORAL COMMUNICATIONS

APPEARANCE BY BARBARA HUNT REGARDING INCONSISTENCIES WITH EAST FRESNO AND WEST FRESNO STREETS/JURISDICTIONS/BOUNDARIES

Appearance made; no action taken.

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(5-B) DISCUSSION REGARDING POSSIBLE OPPORTUNITIES WITH FRESNO COUNTY TO PARTNER HELICOPTER POLICING EFFORTS TO INCREASE OVERALL PROGRAM EFFICIENCIES - COUNCILMEMBER CALHOUN

Briefly reviewed by Councilmember Calhoun who stated he wanted staff to share with Council how the system works with Fresno County and the CHP and what communications staff is having with them so a determination could be made on whether monies are being spent wisely before making a decision on the purchase of the new helicopter on December 17th. Chief Dyer responded at length on where the City has been over the past 12 years and to questions relative to upgrading the City's fleet to what the County has and whether it was time to reinstate discussion in terms of facilities, money, missions, etc.

Speaking to the issue were: Barbara Hunt, 246 W. Byrd, who spoke in opposition to combining services; and the Vice Chair of the Bullard Plan Committee, who stated he did not see helicopters as a deterrent to crime as he did not see them in the air enough and elaborated.

Discussion ensued. President Perea stated legitimate issues were raised by Councilmember Calhoun and he felt the Chief would be talking over time with the County on those opportunities, and clarified a decision was already made to purchase a new helicopter and Council would be considering a budget appropriation for the acquisition next Tuesday unless the decision is changed. Councilmember Calhoun stated he was not satisfied staff had done enough down this route and that could possibly affect his vote on upgrading the helicopter. Chief Dyer responded to questions of Councilmember Boyajian at length on various issues including response time, helicopter equivalency to manpower, benefits/efficiencies of helicopters versus officers on the street, if the upgraded helicopter was necessary, if increased sky patrol was the emphasis, turbine aircraft capacity, if the City currently worked with the County and CHP, if helicopter search lights were a detriment to crime, and if helicopters assisted with firefighting and if they were the first line of protection for terrorism. Councilmember Duncan spoke briefly to his ride-along experience on the sheriff department helicopter and to the value of helicopters in terms of increasing the safety of police officers and citizens, stressed it was time to move to a turbine and the purchase of it was a no-brainer, and added he also felt combined opportunities would occur on their own and naturally. Upon question, Chief Dyer stated

an action item to continue with the purchase was ready for next Tuesday. There was no further discussion.

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 5:03 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

APPROVED on the 17th day of December, 2002.

_____ /s/ HP	ATTEST: _____ /s/ ys
Henry Perea, Council President	Yolanda Salazar, Assistant City Clerk

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12/10/02